

Agenda

Item #3



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: July 17, 2012

Re: Update on Criminal Conviction of Former State Representative David R. Burns

This memo is to update you on the criminal conviction of former State Representative David R. Burns¹ of Alfred, Maine concerning misconduct in his 2010 campaign for the Maine House of Representatives.

Rep. David R. Burns ran for the Maine House of Representatives for the first time in 2010. His district is 138, which includes Alfred, Shapleigh, Limerick and Newfield. He financed his campaign with public funds received through the Maine Clean Election Act (MCEA) program and was elected for the first time to the Maine Legislature.

In the 2010 elections, Rep. Burns was authorized to spend \$9,066 in public funds for his election. His campaign finance reports indicated that he spent \$8,863 and returned \$203 in unspent funds to the Commission after the election.

¹ For purposes of clarification, this enforcement matter concerns former State Representative David R. Burns of District 138, and has no connection to Rep. David C. Burns, who currently represents District 32 in Washington County and is a candidate for the Maine Senate.

Commission's Actions on November 30, 2011

At your November 30, 2011 meeting, you received the staff's audit of the candidate's campaign, which included findings that he misused MCEA funds for personal expenses, misreported expenditures, and had submitted forged documents as part of the audit. You

- found that Rep. Burns had violated provisions in the MCEA and Election Law,
- required the candidate to reimburse the Maine Clean Election Fund \$2,285.48 for unallowable campaign expenses,
- deferred any findings concerning the campaign's use of MCEA funds to reimburse the candidate for campaign travel, and
- deferred the assessment of any civil penalties.

I have attached my memo I provided to you for the meeting, and the written determination.² On January 10, 2012, Mr. Burns returned \$2,285.48 to the Commission.

Criminal Punishment and Restitution

On June 14, 2012, Mr. Burns pled guilty to three counts of forgery and three counts of theft. He was sentenced to imprisonment for 364 days, which was suspended except for 6 months which he will serve.

² If you would like a copy of the final audit report, please let me know and I will e-mail you a copy. Members of the public may find the report at the meetings page of our website (www.maine.gov) under the heading of November 30, 2011.

Rep. Burns agreed to pay restitution of \$2,384 to the Commission by May 2013. This amount consists of:

- \$1,888 in claimed travel expenses which his campaign paid to the candidate;
- \$350 which Mr. Burns claimed to have paid Kyle Raines, who was reportedly the boyfriend of the candidate's daughter; and
- \$146 for a reported payment to Home Depot. The Attorney General's Office determined that a receipt provided by the candidate for this purchase was forged.

The restitution relieves the Commission of determining whether Mr. Burns's campaign was entitled to provide him with a large reimbursement of \$1,888 for his campaign travel.

Argument by Counsel

Mr. Burns's attorney has submitted a letter arguing against the assessment of civil penalties. He provided the Judgment and Commitment, and a document describing the administrative release. The indictment is also attached for your reference.

Staff Recommendation on Civil Penalties

Because of the seriousness of the criminal punishment agreed to by former Rep. Burns, the staff of the Commission recommends no assessment of civil penalties.

Thank you for your consideration of this memo.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

December 21, 2011

William P. Logan, Esq.
Irwin, Tardy & Morris
P.O. Box 476
Newport, Maine 04953

NOTICE OF DETERMINATION

Dear Mr. Logan:

Thank you for your comments to the members of the Maine Commission on Governmental Ethics and Election Practices at the November 30, 2011 meeting concerning the audit of State Representative David R. Burns. The Commission considered your comments and the written materials you provided in response to the audit.

At the November 30, 2011 meeting, the Commissioners made the following determinations. All determinations were made unanimously by Commissioners Walter F. McKee, Andre G. Duchette, Margaret E. Matheson and Jane A. Amero. Commissioner Michael T. Healy was unable to attend the meeting.

Referral to Attorney General

The Commission voted to refer the results of the audit to the Office of the Maine Attorney General for consideration of possible criminal investigation and prosecution.

Repayment of Maine Clean Election Act Funds

The Commission determined to require Rep. Burns to repay \$2,285.48 to the Maine Clean Election Fund, pursuant to 21-A M.R.S.A. § 1127(1). The basis for this amount is set out in the summary of unallowable expenditures on page 12 of the final audit report.

The total of \$2,285.48 does not include the payments which the campaign reportedly made to Rep. Burns to reimburse him for his campaign travel. The Commission expects to consider the validity of the travel reimbursements at a future meeting.

Findings of Violation

The Commission determined that Rep. Burns

- violated 21-A M.R.S.A. § 1125(7-A) by commingling Maine Clean Election Act (MCEA) funds with his personal funds, as discussed in Finding No. 1 of the audit report;
- violated 21-A M.R.S.A. § 1004-A(5) by making materially false statements in documents submitted to the Commission, as discussed in Finding No. 2 of the audit report;
- violated 21-A M.R.S.A. § 1125(6) by using MCEA funds for purposes that were not related to his campaign, as discussed in Finding No. 3 of the audit report;
- violated 21-A M.R.S.A. § 1004-A(4) by filing campaign finance reports that substantially misreported expenditures, as discussed in Finding No. 4 of the audit report;
- violated 21-A M.R.S.A. § 1125(12) by failing to accurately report expenditures of MCEA funds, as discussed in Findings No. 5 and 8 of the audit report;
- violated 21-A M.R.S.A. § 1125(12-A)(C) by failing to keep campaign records as required by law, as discussed in Finding No. 6 of the audit report; and
- violated 21-A M.R.S.A. § 1125(2-A)(A) by using MCEA funds to pay for goods received prior to certification as an MCEA candidate, as discussed in Finding No. 7 of the audit report.

Civil Penalties

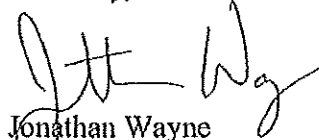
The Commission deferred the assessment of civil penalties for these violations until the completion of any investigation by the Office of the Maine Attorney General.

Because the Commission has not yet resolved the issues regarding travel reimbursements and has not yet determined the amount of civil penalties to impose for the above listed violations, this determination does not constitute a final agency action that would be appealable to Superior Court, pursuant to the Maine Administrative Procedure Act and Rule 80C of the Maine Rules of Civil Procedure.

William P. Logan, Esquire
Page 3
December 21, 2011

Please call me at 287-4179 if you have any questions about the Commission's consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Wayne", written over the printed name.

Jonathan Wayne
Executive Director

cc: Office of the Maine Attorney General



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: November 18, 2011
Re: Recommended Referral of Rep. David Richard Burns for Possible Criminal Investigation

The staff of the Ethics Commission has completed its audit of the 2010 campaign of David Richard Burns,¹ which was financed with public campaign funds through the Maine Clean Election Act (MCEA) program. Because of the findings in the audit (principally Findings No. 2, 3, and 4), the staff of the Commission recommends that you refer this matter to the Office of the Maine Attorney General for possible criminal investigation. The misconduct identified in the audit (misuse of MCEA funds, falsifying documents, falsely claiming expenditures) is very serious but it is also very rare, as is discussed in the final section of this memo. Hundreds of other MCEA candidates in 2010 and over a thousand candidates in the past four elections have used MCEA funds for their intended purpose and adhered to the requirements of the program.

2010 Campaign of David R. Burns

Rep. David R. Burns ran for the Maine House of Representatives for the first time in 2010. His district is 138, which includes Alfred, Shapleigh, Limerick and Newfield. He financed his campaign with public funds received through the MCEA program and was elected for the first time to the Maine Legislature.

In the 2010 elections, Rep. Burns was authorized to spend \$9,066 in public funds for his election. His campaign finance reports indicated that he spent \$8,863 and returned \$203 in unspent funds to the Commission after the election.

¹ For purposes of clarification, this enforcement matter concerns State Representative David R. Burns of District 138, and has no connection to Rep. David C. Burns, who represents District 32 in Washington County.

Audit of Campaign

Rep. Burns was selected randomly for an audit of his campaign. The audit began on March 17, 2011, when the Commission's auditor requested documents supporting reported expenditures. (The Commission had previously received some information from Rep. Burns because a private citizen who supported his opponent in the 2010 election filed a complaint requesting an investigation into certain reported expenditures for travel and signs. The complaint was later withdrawn.) During the course of the audit, Rep. Burns engaged an attorney, William P. Logan, Esq., of the firm of Irwin, Tardy & Morris, to represent him in the audit.

On November 4, 2011, the Commission mailed to Rep. Burns' attorney a draft version of the audit report. Also, on the same day, the Commission staff mailed to Rep. Burns' attorney the attached notice that the staff intended to recommend findings of violation of campaign finance law and that the staff would recommend a referral to the Office of the Maine Attorney General for investigation.

On November 16, 2011, Mr. Burns responded to the draft audit report through his attorney. The Commission staff and auditor considered the candidate's response in preparing the final audit report (attached).

The final audit report includes eight findings, including commingling MCEA funds with personal funds, submitting falsified receipts to the Commission, misuse of MCEA funds, falsely claiming three expenditures totaling \$1,295 in campaign finance reports, other reporting violations, and using MCEA funds to pay for a qualifying expense.

Recommendations by Commission Staff

At your November 30, 2011 meeting, the Commission staff recommends that you:

- (1) make the findings of violation listed in the attached Notice of Recommended Findings of Violation against Representative David R. Burns;

- (2) refer the results of the audit to the Office of the Maine Attorney General for consideration whether to initiate a criminal investigation; and
- (3) defer requiring any repayment of public campaign funds or assessing any civil penalties pending a decision from the Attorney General to investigate or the conclusion of a criminal prosecution on matters arising out of the audit.

Referral of Misconduct to Office of Maine Attorney General

Three of the findings in the final audit report describe conduct that appears to be potentially criminal.

Finding No. 2 – submitting falsified receipts.

During the course of the audit, the Commission's auditor requested receipts or bills for the purchases made by the campaign. On March 27, 2011, the candidate submitted a number of documents by e-mail, including documents that were purportedly cash register receipts for three purchases made by the campaign at two restaurants (Pizza and Wings, the Bistro) and to The Reporter newspaper for advertising. Two days later, the candidate telephoned the Commission staff to disclose that these documents were fabricated. He admitted that one of the transactions (to the Reporter) had never occurred. The candidate maintained that the two reported payments to restaurants actually occurred, and that he used cash to make the payments, but he did not obtain receipts at the time he made the purchases.

Submitting false documents to a government auditor who is conducting a compliance audit is serious misconduct, particularly if the purpose is to support at least one transaction which the candidate knew had been falsely entered into a financial report. The Commission staff believes it is appropriate for the Commission to refer this misconduct to the Office of the Maine Attorney General for possible criminal investigation.

Finding No. 3 – misuse of MCEA funds for personal expenditures.

MCEA candidates are required to segregate their campaign funds from their personal funds. Instead, over the course of his campaign, Rep. Burns transferred \$6,711 in MCEA funds from his campaign bank account to his personal bank account.

The candidate spent a significant portion of these transferred MCEA funds for personal purposes, as described in Finding No. 3 of the audit report. For example, Rep. Burns made three transfers of MCEA funds totaling \$2,600 from his campaign account to his personal account beginning on June 14, 2010.

Rep. Burns spent this entire amount of \$2,600 during the 11-day period of June 14-25, 2010, except for a balance of \$77.01 which remained in the personal bank account on June 25, 2010. The audit concluded that none of these payments was related to his campaign. The full extent of the misuse is difficult to ascertain because of the commingling of his campaign and personal funds.

The audit also disclosed that the candidate made purchases from the campaign bank account that he never disclosed in campaign finance reports, including payments of \$118.95 to the Kum Gan Sang Restaurant; \$55.99 to the Boonies; \$18.03 to GMP Gasoline; and a cash withdrawal of \$200. These purchases are discussed in Finding No. 5 of the final audit report. The Commission staff does not accept these as related to his campaign.

Finding No. 4 – falsely reporting campaign expenditures.

During the course of the audit, the candidate admitted that three of the reported expenditures totaling \$1,295 never occurred. The Commission staff appreciates that, even with the best intentions to report correctly, candidates and treasurers sometimes make minor reporting errors in campaign finance reports (such as duplicate entries, or omissions). In this instance, however, the staff is concerned about the possibility that Rep. Burns or his treasurer knowingly entered false information in the official spending reports of the campaign.

Repayment of Public Campaign Funds

The audit report concludes that the candidate should repay \$2,285.48 to the Maine Clean Election Fund. This is shown in the Summary of Unallowable Expenditures of MCEA Funds on page 12 of the final audit report. One portion of this amount results from expenditures (the Reporter, Signs on the Cheap) which the candidate admits did not occur. The staff also believes the candidate must return \$110.15, which was an impermissible use of MCEA funds to pay for goods received prior to qualifying for public funding and should have been paid for with seed money.

Another portion relates to four reported expenditures (Pizza and Wings, the Bistro, Tim Guinard, Kyle Raine) for which the candidate does not have any proof that he paid the vendor, such as a canceled check, or debit or credit card statement, and lacks any vendor invoice or receipt. The candidate has submitted letters from Mr. Guinard and Mr. Raine to support his contention that his 2010 campaign received services for which they were paid. He has also submitted letters from people who say that they witnessed the campaign meals at the two restaurants. For reasons expressed in the auditor's November 18, 2011 response, the Commission staff recommends not accepting these expenditures.

The staff recommends that the Commission defer any decision to order the candidate to repay a specific amount of public campaign funds until after any criminal investigation or prosecution by the Attorney General.

Campaign's Reimbursement of Travel Expenditures

The campaign reported reimbursing \$1,882.40 to Rep. Burns for his campaign travel. In addition, the candidate is claiming that a 7/28/2010 cash withdrawal was to reimburse the candidate for travel. Thus, total mileage reimbursement appears to have been \$2,082.40. Rep. Burns' travel reimbursements significantly exceed the amounts claimed by any other House candidate. While this by itself is no indication of wrong-doing, the auditor believes the Commission should be aware of this fact in considering Rep. Burns' travel reimbursements.

As explained on page 9 of the final audit report, the Commission's auditor has concerns about the reliability of the travel logs submitted by the campaign. Given the misuse of public funds and the falsification of receipts described above, the Commission's auditor cannot with confidence recommend that the Commission accept the reliability of the travel logs and that the Commission allow these expenditures.

The decision whether to disallow the \$2,082.40 in travel reimbursement is an important one for the Commission and for Rep. Burns. The Commission staff would be willing to undertake any further investigation that you would like. Further investigation could include:

- an inspection of the original handwritten travel log;
- an in-person interview of the candidate concerning his travel record-keeping with counsel in attendance, if the candidate would consent;
- an inspection of the electronic record of travel created in excel or other software to determine its date of creation; and
- interviews of former York County Sheriff Wesley Phinney or State Senator Ronald F. Collins who apparently traveled with Rep. Burns while campaigning in 2010.

The Commission could inquire whether the Attorney General's office would be willing to conduct this investigation pursuant to 21-A M.R.S.A. § 1003(4) to assist the Commission in determining whether the \$2,082.40 should be part of the repayment obligation of Rep. Burns.

High Compliance Rate Overall

Overall, the 2010 audit program has demonstrated that the vast majority of Maine Clean Election Act candidates take the legal requirements of the program seriously. In 2010, the Commission staff audited all three MCEA gubernatorial candidates and around 67 legislative candidates (roughly 20%) who participated in the MCEA program. The auditor has already begun working on a summary of the results, and has found, overall, a very high rate of compliance. In the 2010 elections, more than 75% were in full

compliance (with no reporting mistakes or missing campaign records). Most instances of non-compliance were minor, while a few resulted in substantial fines. No other audit in 2010 discovered misconduct that appeared to be criminal.

In the past four elections, around 300 legislative candidates have participated in the program in each election cycle. We have only found a handful who have misused MCEA funds. In past election years, the Commission has recommended two candidates to the Attorney General for misuse of funds (Rep. William Walcott and Debra Reagan in 2006) and two candidates for falsifying records to qualify for MCEA funding (Peter Throumoulos in 2006 and Bruce Ladd in 2008).

If you would like any further information concerning the results of the 2010 audits, the Commission staff would be pleased to provide them. Thank you for your consideration of this agenda item.

IRWIN
&
TARDY
MORRIS

William P. Logan
wlogan@itmlaw.com

159 Main Street
P.O. Box 476
Newport, Maine 04953

207.368.2828 T
207.368.2822 F

Via e-mail only

June 20, 2012

Jonathan Wayne, Executive Director
Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: *David Burns Audit*

Dear Jonathan:

At the Commission's November 30, 2011 meeting, the Commission made findings against David Burns and required Mr. Burns to repay \$2,285.48 (which has already been repaid to the Commission), but deferred any decision on the repayment of additional funds and/or the imposition of civil penalties until after the conclusion of any criminal prosecution.

David Burns pleaded guilty on June 14, 2012 in the York County Superior Court to three (3) counts of Theft By Unauthorized Taking (17-A M.R.S.A. §353) and three (3) counts of Forgery (17-A M.R.S.A. §703). Mr. Burns was sentenced to 364 days in the York County Jail on each count (to be served concurrently) with all but six (6) months of that sentence suspended. Additionally, his sentence includes a one-year period of Administrative Release following his release from incarceration and payment of restitution to the Commission in the amount of \$2,384.00. That restitution includes, *inter alia*, the entirety of the claimed mileage reimbursement. There were also statutory fees in the amount of \$60.00 imposed. I enclose a copy of the Judgment and Commitment and Terms of Administrative Release for your consideration.

Since the criminal matter is now concluded, I believe that the Commission should set this matter for review at its convenience. I will be present to explain in detail our position that the Commission should decline imposing any additional penalties. Some of the reasons for our position follow.

First and foremost, Mr. Burns was sentenced to the maximum period of incarceration permitted by statute (364 days) and will actually serve a significant portion of that sentence, *i.e.* six months. Additionally, Mr. Burns will be subject to a one-year period of administrative release following his release from jail.

Jonathan Wayne
June 20, 2012
Page 2 of 2

Secondly, Mr. Burns' sentence includes the payment of \$2,384.00 in restitution to the Commission. This restitution includes all of the claimed mileage reimbursement. By agreeing to this, Mr. Burns has relieved the Commission of additional fact-finding to determine whether to allow any of the claimed mileage, and if so, how much. Moreover, in repaying all of the claimed mileage, Mr. Burns is most likely repaying some, if not all, mileage for legitimate campaign expenses.

Finally, this matter is similar to the Walter Walcott matter previously before the Commission. In that case, the Commission deferred a decision on civil penalties until after criminal prosecution. Mr. Walcott was sentenced to serve six months. It does not appear from the Commission's records that the Commission imposed any additional civil penalties to Mr. Walcott. This further militates in against any additional civil penalties.

In summation, we believe that no additional civil penalties should be imposed against Mr. Burns in light of the significant jail sentence and administrative release in the criminal prosecution; the \$2,384.00 in restitution (in addition to the amounts already repaid); and the fact that no additional penalties were imposed to Mr. Walcott in a prior Commission matter.

I look forward to expanding upon these points, providing additional information for the Commission's consideration and responding to any questions the Commissioners any have when the Commission sets this matter for consideration.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'William P. Logan', with a stylized flourish extending from the end.

William P. Logan, Esq.

WPL/tmf

Enclosure

cc: David Burns
Paul Lavin

State Of Maine <input checked="" type="checkbox"/> Superior Court <input type="checkbox"/> District Court		Judgment And Commitment	
Docket No. CR-12-276	County/Location YORK COUNTY - ALFRED	Date: 6/14/12	DOB 9/26/67
State of Maine v. Defendant's Name DAVID R. BURNS		Residence ALFRED, ME	
Offense(s) charged: CT. 1: 17-A MRSA §353(1)(B)(4) THEFT BY UNAUTHORIZED TAKING CLASS C CTS. 2, 3 & 9: 17-A MRSA §703(1)(A) FORGERY CLASS D CT. 4: 17-A MRSA §903(1) MISUSE OF ENTRUSTED PROPERTY CLASS D CT. 5: 21-A MRSA §1127(2) VIOLATION OF CLEAN ELECTION ACT CLASS E CTS. 6, 7 & 8: 21-A MRSA §1127(2) FALSE REPORTS UNDER THE CLEAN ELECTION ACT CLASS E CTS. 10, 11 + 12: 17A MRSA §353 Theft Class D Plea(s): <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> Not Guilty		Charged by: <input checked="" type="checkbox"/> indictment <input checked="" type="checkbox"/> information <i>filed 6/14/12</i> <input type="checkbox"/> complaint Date of Violation(s): 2004; 2010; 2011	
Offense(s) convicted: CTS. 2, 3 + 9: 17A MRSA §703(1)(A) Forgery Class D CTS. 10, 11 + 12: 17A MRSA §353 Theft Class D		Convicted on: <input checked="" type="checkbox"/> plea <input type="checkbox"/> jury verdict <input type="checkbox"/> court finding	
It is adjudged that the defendant is guilty of the offenses as shown above and convicted.			
<input checked="" type="checkbox"/> It is adjudged that the defendant be hereby committed to the sheriff of the within named county or his authorized representative who shall without needless delay remove the defendant to:			
<input type="checkbox"/> The custody of the Commissioner of the Department of Corrections, at a facility designated by the Commissioner, to be punished by imprisonment for a term of _____			
<input checked="" type="checkbox"/> A County jail to be punished by imprisonment for a term of <u>CTS. 2, 3, 9, 10, 11 + 12:</u> <u>364 Days</u> <u>*all counts concurrent*</u>			
<input type="checkbox"/> This sentence to be served (consecutively to) (concurrently with) _____			
<input checked="" type="checkbox"/> Execution stayed to on or before: <u>6/18/12</u> at <u>9:00</u> (a.m.) (p.m.)			
Notice to Defendant: Your sentence does not include any assurance about the location of the facility where you will be housed during your commitment.			
<input checked="" type="checkbox"/> It is ordered that all (but) <u>6 months</u> of the sentence (as it relates to confinement) (as it relates to the _____) be suspended and the defendant be placed on a period of <input type="checkbox"/> probation <input checked="" type="checkbox"/> administrative release for a term of <u>1</u> (year) (months) upon conditions attached hereto and incorporated by reference herein. <input type="checkbox"/> said probation to commence (_____) (upon completion of the unsuspended term of imprisonment). <input checked="" type="checkbox"/> said administrative release to commence immediately.			
<input type="checkbox"/> The defendant shall serve the initial portion of the foregoing sentence at a County jail.			
<input type="checkbox"/> It is ordered that the defendant forfeit and pay the sum of \$ _____ as a fine to the clerk of the court, plus applicable surcharges and assessments.			
<input type="checkbox"/> All but \$ _____ suspended.			
<input type="checkbox"/> Execution/payment stayed to pay in full by _____ or warrant to issue.			
<input type="checkbox"/> To pay \$ _____ per week / month beginning _____ or warrant to issue			
TOTAL DUE: \$ <u>60.00</u>			
SS Number Disclosure Required on separate form			

☒ It is ordered that the defendant forfeit and pay the sum of \$ 2,384.00 as restitution for the benefit of Commission on Governmental Ethics. (17-A M.R.S.A. § 1152-2-A).

Restitution is to be paid through the Office of the District Attorney. ☐ Execution/payment stayed to pay in full by 11th month ☐ Installment payments of _____ to be made (biweekly) (monthly) or warrant to issue, EXCEPT THAT during any period of commitment to the Department of Corrections and/or any period of probation imposed by this sentence, restitution is to be paid to the Department of Corrections on a schedule to be determined by the Department.

☐ It is ordered pursuant to applicable statutes, that the defendant's motor vehicle operator's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license and/or the defendant's right to register a motor vehicle is suspended in accordance with notice of suspension incorporated herein.

☐ It is ordered that the defendant perform _____ hours of court-approved community service work within _____ (weeks) (months) for the benefit of _____.

☐ It is ordered that the defendant pay \$ _____ for each day served in the county jail, to the treasurer of the above named county. (up to \$80/day) (17-A M.R.S.A. § 1341)

☐ Execution/payment stayed to pay in full by _____ or warrant to issue.

☐ It is ordered that the defendant shall participate in alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the office of substance abuse. (29 M.R.S.A. § 1312-B (2)(D-1), 29-A M.R.S.A. § 2411 (5)(F))

☐ It is ordered that the defendant forfeit to the state the firearm used by the defendant during the commission of the offense(s) shown above. (17-A M.R.S.A. § 1158)

☐ It is ordered that the defendant be unconditionally discharged. (17-A M.R.S.A. § 1201)

If the defendant has been convicted of an applicable offense listed in 25 MRSA § 1574, then the defendant shall submit to having a DNA sample drawn at any time following the commencement of any term of imprisonment or at any time following commencement of the probation period as directed by the probation officer.

It is further ordered that the clerk deliver a certified copy of this judgment and commitment to the sheriff of the above named county or his authorized representative and that the copy serve as the commitment of the defendant. Reasons for imposing consecutive sentences are contained in the court record or in attachments hereto.

All pending motions, other than motions relating to payment of fees and bail are hereby declared moot (except _____).

A TRUE COPY, ATTEST: _____

Clerk

Paula T. Judge
Judge/Justice

I understand the sentence imposed herein and acknowledge receipt of a copy of this JUDGMENT AND COMMITMENT.

I hereby acknowledge that the disclosure of my Social Security number on the Social Security Disclosure Form is mandatory under 36 M.R.S.A. § 5276-A. My Social Security number will be used to facilitate the collection of any fine that has been imposed upon me in this action if that fine remains unpaid as of the time I am due a State of Maine income tax refund. My Social Security number also may be used to facilitate the collection of money I may owe the State of Maine as a result of having had an attorney appointed to represent me. Collection of any fine or reimbursement of money, which I owe to the State of Maine, will be accomplished by offsetting money I owe to the State against my State of Maine income tax refund.

SS Number Disclosure Required on separate form

Date: 6-14-12

Defendant [Signature]

Address 186 Gore Rd.
Alfred, ME 04002

STATE OF MAINE
YORK, ss

SUPERIOR COURT
DOCKET NO. CR-12-276

STATE OF MAINE

V.

DAVID R. BURNS

You are placed on administrative release for a period of one year:

THE REQUIREMENTS OF YOUR ADMINISTRATIVE RELEASE ARE AS FOLLOWS:

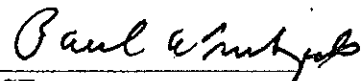
YOU SHALL:

1. Refrain from all criminal conduct and violation of federal, state, and local laws.
- ☒ 2. Identify yourself as being on administrative release if arrested or questioned by law enforcement and notify the Attorney General's Office in writing of any contact with law enforcement within 96 hours of the contact.
- ☒ 3. Pay restitution in the amount of \$2,384 to the Commission on Governmental Ethics and Election Practices. Checks shall be made payable to the Commission and forwarded to Leanne Robbin, AAG, Office of Attorney General, Six State House Station, Augusta, Maine 04333.
Within 11 months of Administrative Release

If you violate or fail to fulfill any of the above conditions, you may be arrested, your administrative release may be revoked and you may be required to serve the rest of your sentence in jail or prison.


ORDERED: All requirements of Administrative Release are incorporated in the judgment and docket by reference.

DATE: June 14, 2012


JUSTICE

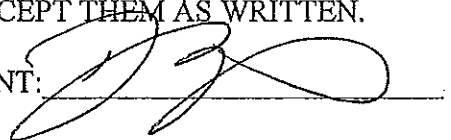
As counsel for the defendant, I have explained to the defendant this procedure and agreement. I believe the defendant fully understands the meaning of this agreement and has sufficient mental capacity to intelligently, intentionally, and knowingly enter into this agreement.

DATE: June 14, 2012


Attorney for Defendant

I ACKNOWLEDGE RECEIPT OF THESE REQUIREMENTS AND ACCEPT THEM AS WRITTEN.

DATE: 6-14-12

DEFENDANT: 

A TRUE COPY, ATTEST: _____
Clerk

STATE OF MAINE
YORK, ss.

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-12-

STATE OF MAINE	)	INDICTMENT FOR ONE COUNT
	)	THEFT (17-A M.R.S.A. §353) (CLASS C)
v.	)	[COUNT 1], THREE COUNTS OF
	)	FORGERY (17-A M.R.S.A § 702) (CLASS D)
DAVID R. BURNS	)	[COUNTS 2-3, 9], ONE COUNT MISUSE OF
	)	ENTRUSTED PROPERTY (17-A M.R.S.A. §903)
DOB: 09/26/1967	)	(CLASS D) [COUNTS 4], ONE COUNT
186 Gore Road	)	VIOLATION CLEAN ELECTION ACT
Alfred ME 04002	)	(21-A M.R.S.A. §1127(2)) (CLASS E)
	)	[COUNTS 5], AND THREE COUNTS
Defendant	)	MAKING FALSE REPORTS UNDER
	)	CLEAN ELECTIONS ACT (21-A M.R.S.A.
SEX/MALE HGT/506 WGT/230	)	§1127(2)) (CLASS E) [COUNT 6-8]
HAI/BROWN EYE/BROWN)	

Incident # 2011-077-31A

The Grand Jury charges:

COUNT 1
THEFT BY UNAUTHORIZED TAKING
17-A M.R.S.A. § 353 (CLASS C)
ATN: 939898A/CTN: 001
SEQUENCE #: 008427

From on or about June 14, 2010 to on or about October 26, 2010, in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did commit theft pursuant to one scheme or course of conduct by obtaining or exercising unauthorized control over the property of the State of Maine, such property consisting of money with an aggregate value in excess of \$1,000, with the intent to deprive the State of Maine thereof, in that the Defendant diverted public campaign funds to pay for personal expenses not eligible for public campaign financing, all in violation of 17-A M.R.S.A. §§ 352(5)(E), 353(1)(A) & (B)(4)(2006).

COUNT 2
FORGERY
17-A M.R.S.A. § 703 (CLASS D)
ATN: 939898A/CTN: 002
SEQUENCE #: 008506

On or about March 14, 2011, in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did commit forgery, in that, with the intent to defraud or deceive the State of Maine Commission on Governmental Ethics and Election Practices, the Defendant falsely made a written instrument or knowingly uttered or possessed such instrument, to wit, a letter dated March 13, 2011, purportedly created by Timothy R. Guinard, a copy of which instrument is attached to this Indictment as Appendix A and incorporated in Count 2 by reference, all in violation of 17-A M.R.S.A. §703 (1)(A) (2006).

COUNT 3
FORGERY
17-A M.R.S.A. § 703 (CLASS D)
ATN: 939898A/CTN: 003
SEQUENCE #: 008506

On or about March 27, 2011, in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did commit forgery, in that, with the intent to defraud or deceive the State of Maine Commission on Governmental Ethics and Election Practices, the Defendant falsely made a written instrument or knowingly uttered or possessed such instrument, to wit, a page containing receipts purportedly issued from the Oak St. Bistro, Waterboro House of Pizza and Current Publishing, a copy of which instrument is attached to this Indictment as Appendix B and incorporated in Count 3 by reference, all in violation of 17-A M.R.S.A. §703 (1)(A) (2006).

COUNT 4
MISUSE OF ENTRUSTED PROPERTY
17-A M.R.S.A. § 903 (CLASS D)
ATN: 939898A/CTN: 004
SEQUENCE #: 005004

From on or about April 28, 2004 to on or about December 13, 2004, in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did misuse entrusted property, in that he dealt with property of the government, namely, public campaign funds, in a manner which he knew to be a violation of his duty and which involved a substantial risk of loss to the State of Maine, in violation of 17-A M.R.S.A. § 903(1) and (3)(2006).

COUNT 5
VIOLATION OF CLEAN ELECTION ACT
21-A M.R.S.A. §1127(2)(CLASS E)
ATN: 939898A/CTN: 005
SEQUENCE #: 002888

From on or about June 14, 2010, to on or about October 26, 2010 , in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did knowingly violate 21-A M.R.S.A. §1125 (7-A), in that he knowingly commingled public campaign funds with his personal funds, all in violation of 21-A M.R.S.A. §1127(2) (Supp. 2010).

COUNT 6
FALSE REPORTS UNDER THE CLEAN ELECTION ACT
21-A M.R.S.A. §1127(2)(CLASS E)
ATN: 939898A/CTN: 006
SEQUENCE #: 002888

On or about December 17, 2010, in the County of York, State of Maine, Defendant David R. Burns did willfully or knowingly make one or more false statements in a report required under the Maine Clean Election Act, in that he falsely represented in his 11-Day Pre-General Campaign Finance Report (a report required under 21-A M.R.S.A. §§1017(3-A)(B) & 1125(12)) that he had

expended public campaign funds on a half page ad by the Reporter, all in violation of 21-A M.R.S.A. §1127(2) (Supp. 2010).

COUNT 7
FALSE REPORTS UNDER THE CLEAN ELECTION ACT
21-A M.R.S.A. §1127(2)(CLASS E)
ATN: 939898A/CTN: 007
SEQUENCE #: 002888

On or about September 20, 2010, in the County of York, State of Maine, Defendant David R. Burns did willfully or knowingly make one or more false statements in a report required under the Maine Clean Election Act, in that he falsely represented in his 42-Day Pre-General Campaign Finance Report (a report required under 21-A M.R.S.A. §§1017(3-A)(D-1) & 1125(12)) that he had disbursed public campaign funds to Signs on the Cheap, Tim Guinard, Kyle Raine and Home Depot, all in violation of 21-A M.R.S.A. §1127(2) (Supp. 2010).

COUNT 8
FALSE REPORTS UNDER THE CLEAN ELECTION ACT
21-A M.R.S.A. §1127(2)(CLASS E)
ATN: 939898A/CTN: 008
SEQUENCE #: 002888

On or about February 28, 2011, in the County of York, State of Maine, Defendant David R. Burns did willfully or knowingly make one or more false statements in a report required under the Maine Clean Election Act, in that he falsely represented in his 42-Day Post-General Campaign Finance Report (a report required under 21-A M.R.S.A. §§1017(3-A)(D) & 1125(12)) that he had disbursed public campaign funds to Pizza & Wings on November 1, 2010, and to Bistro on November 6, 2010, all in violation of 21-A M.R.S.A. §1127(2) (Supp. 2010).

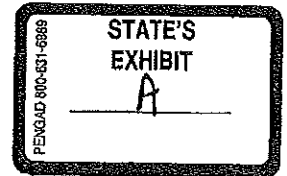
COUNT 9
FORGERY
17-A M.R.S.A. § 703 (CLASS D)
ATN: 939898A/CTN: 009
SEQUENCE #: 008506

On or about March 14, 2011, in the County of York, State of Maine, Defendant David R. Burns ("Defendant") did commit forgery, in that, with the intent to defraud or deceive the State of Maine Commission on Governmental Ethics and Election Practices, the Defendant falsely made a written instrument or knowingly uttered or possessed such instrument, to wit, a receipt dated September 9, 2010 from Home Depot, a copy of which instrument is attached to this Indictment as Appendix C and incorporated in Count 9 by reference, all in violation of 17-A M.R.S.A. §703 (1)(A) (2006).

A True Bill.

Dated: 5/8/12

Margaret Moane
Foreperson *Deputy*



March 13, 2011

I am sending this letter in regards to a request made of me by David Burns from Alfred, Me. During the month of September David asked me if I would paint some signs for his campaign, as I have painted signs for people in the past. He asked me to paint 10 signs. He first brought some old plywood from his parents farm but it was too weathered and warped because it had sat outside for some time. I still attempted to paint a couple of signs with a blue on red scheme. I was unhappy with the results because the material was in poor condition. He then brought me some new plywood that I think he purchased at Home Depot and the sheets were already cut. When the signs were completed I was not happy with the results because the color scheme, navy blue on dark red was not the best choice and they did not show up very well from a distance especially at night. I know he put a couple of signs out at the end of Kennebunk road but again he was not happy with how they just looked and they did not show up the way he expected. He paid me \$475 and said that is basically what the quotes were for hand painted signs he got. Basically that was the end of our deal. I know David was not happy with the results because the color scheme he chose was pretty much wrong for viewing at a distance.

I guess David then chose to have the signs redone by someone who was better suited to paint the signs faster and used a different color scheme which was a blue on white that matched his printed signs.

If I can be of any further assistance please let me know.

Sincerely,

Timothy R. Guinard
1 Burns Lane
Alfred, Me 04002

*** Oak Street Bistro***
4 Oak Street
Alfred, ME 04002

*** Oak Street Bistro***
4 Oak Street
Alfred, ME 04002

Server: Emma 11/06/10
225/1 8:42 PM
Guests: 10 28005
Reprint #: 1

Chicken Fingers (4 @6.99) 27.96
French Onion Soup (2 @6.99) 13.98
Bistro Steak (5 @15.99) 79.95
Chicken Parmesan (2 @14.99) 29.98
Baked Haddock (2 @15.99) 31.98
Clam Chowder (2 @4.99) 9.98
Coke (8 @2.25) 13.50
Sprite (3 @2.25) 6.75
Ginger Ale 2.25

Subtotal 234.32
Tax 16.40

Total 250.72

Balance Due 250.72

Come Join Us For The Holiday's!
Specials Daily
Now Accepting Reservations

Server: Emma . DOB: 11/06/2010
8:46 PM 11/06/2010
225/1 2/28005

VISA 2097177
Card #XXXXXXXXXXXX4704
Magnetic Card Present: Burns David R
Approval: 155391

Amount: 250.72

+ Tip: _____

= Total: _____

Come Join Us For The Holiday's!
Specials Daily
Now Accepting Reservations

Guest Copy

WATERBURY HOUSE PIZZA
929 MAIN STREET
WATERBURY, ME 02408

Merchant ID: 000000000867833
Term ID: 01250765

Sale

VISA XXXXXXXXXXXX4704
ENTRY METHOD: Swiped
Apprvd: Online Batch: 001236
11/01/10 18:37:27

Inv #: 000046 Appr Code: 193571

Total: \$ 135.33

Customer Copy

FREE LARGE FRY OR ONION RING
WITH ANY PURCHASE OF \$10 OR MORE

CURRENT PUBLISHING
840 MAIN STREET
WESTBROOK, ME 04098
(207) 854-2577
THANK YOU!!!

C O P Y

10/18/2010 13:43:23

Sale:

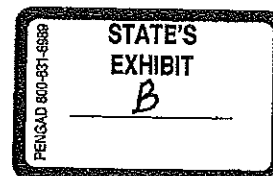
Transaction # 3
Card Type: VISA
Acc: XXXXXXXXXXXX4704
Entry: Manual
Total: 330.00

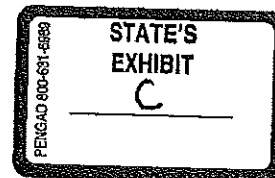
Device ID: 1234
Reference No.: 161081703418718

Auth. Code 103527
Respon. AUTH/TKT 103527
AVS Resp.:

Address (Street) and
5 digit Zip match.
CW2 Resp.:

CW2 matches with
system data.
Merchant number ***56294
CUSTOMER COPY





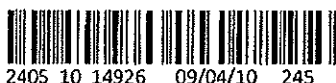
More saving.
More doing.

550 ALFRED STREET
BIDDEFORD, ME 04005 (207)284-1115

2405 00010 19926 09/04/10 12:08 PM
CASHIER DIANE - DC06VT

007089217025 1.5" ALPTBRSH <A>	6.97
077089217117 1" GRN RT <A>	5.97
099167457185 3/8 2X4 BC <A>	
10@8.73	87.30
040933032808 BALUSTER <A>	
20@1.96	39.20

SUBTOTAL	139.44
SALES TAX	6.97
TOTAL	\$146.41
XXXXXXXXXX9228 MASTERCARD	146.41
AUTH CODE 01279B/4104685	



2405 10 14926 09/04/10 245

RETURN POLICY DEFINITIONS

POLICY ID	DAYS	POLICY EXPIRES ON
A 1	90	12/03/2010

THE HOME DEPOT RESERVES THE RIGHT TO
LIMIT / DENY RETURNS. PLEASE SEE THE
RETURN POLICY SIGN IN STORES FOR
DETAILS.

GUARENTEED LOW PRICES
LOOK FOR HUNDREDS OF
LOWER PRICES STOREWIDE
